IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE ELEVENTH DAY OF APRIL
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE V.ESWARAIAH

WRIT PETITION NO : 10527 of 2004

Between:

M/s Waddera Contract Co-operative Society Ltd, Lingagiri, Huzurnagar Mandal of Nalgonda District, Rep. by its President V. Laxmaiah.

... PETITIONER

AND

1 State of A.P. through Secretary, Roads & Buildings, Secretariat, Hyderabad.
2 Executive Engineer (R&B) Division, Miryalaguda, Nalgonda District.

...RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue order, Writ or direction more particularly one in the nature of Writ of Mandamus declaring the action of Respondent No.2 in not considering the tender of the petitioner on the ground that it was not accompanied Bank Guarantee or Demand Draft for the difference amount between the tendered amount and 85% as illegal arbitrary, and contrary to the letter and spirit of G.O.Ms.No. 17 dated 6-2-2004 and consequently direct the respondent No.2 to consider the tender of petitioner as per law

Counsel for the Petitioner: MR.VENUGOPALA RAO PASNOORU

Counsel for the Respondents: GP FOR ROADS & BUILDINGS

The Court made the following order:

ORDER:

Petitioner seeks a Writ of Mandamus declaring the action of the respondent no.2 in not considering the tender of the petitioner on the ground that the petitioner has not complied with the condition of furnishing additional security by way of bank guarantee or Demand Draft for the differential amount between the tendered amount and 85% of the estimate value as illegal, arbitrary and contrary to the letter and spirit of G.O.Ms.No.17 dated 06.02.2004.

Counter has been filed stating that as per the G.O.Ms.No.94 dated 01.07.2003 for the tenders quoted more than 15% less of the estimate value a demand draft in favour of Pay and Accounts Officer, Nalgonda for the difference between the tender amount and 85% of estimate value shall be submitted along with tender schedules.

The tender of the petitioner was up to 25% less than the estimated value but he has not furnished additional security as per the condition of tender notice. Therefore, the two works, in respect of which the petitioner became lowest tenderer, were rejected on the ground that the petitioner failed to furnish additional security and the tenders of the next lowest and who deposited the additional security deposit were accepted and the agreements have been concluded for the works on 22.06.2004 and 23.06.2004.

In view of the aforesaid facts and circumstances of the case, I am of the opinion that the subject matter of the writ petition has become infructuous as the petitioner could not furnish the additional security and the agreements of the said works have been concluded on 22.06.2004 and 23.06.2004, which the petitioner has not questioned in this writ petition. Also in the absence of the successful tenderers, who are not made party to the writ petition, the petitioner is not entitled for any relief.

Accordingly, the writ petition is dismissed as having become infructuous. No costs.

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V. ESWARAIAH, J

April 11, 2005

Dsk

To

1 The Secretary, State of A.P., Roads & Buildings, Secretariat, Hyderabad.
2 The Executive Engineer (R&B) Division, Miryalaguda, Nalgonda District.

3 Two CCs to GP For Roads & Buildings, High Court Buildings, Hyderabad

(OUT)

Two CD Copies.